IN THE HIGH COURT OF BOMBAY AT GOA.

CIVIL REVISION APPLICATION NO. 7 OF 2002.

1. Lucia Cezaria Pereira da Costa
2. Pedro Joao Braganza,
   residing at St. Cruz, Ilhas,
   Goa. ... Applicants.

Versus

1. Paulo Domingos Mesquita
2. Carlos Mesquita,
   both r/o Opposite Health
   Department, Campal, Panaji.
3. Alberto Mesquita,
   H. No. 194, Terceiro,
   Bairo Colva, Salcete Goa. ... Respondents.

Mr. E. P. Lobo, Advocate for the Applicants.

Mr. Rohit Bras de Sa, Advocate for the Respondent No. 1.

Coram: P.V. HARDAS. J.

Date: 4th July 2002.

ORAL JUDGMENT.

By consent of parties, this Civil Revision Application is taken up for final hearing.

2. Mr. Lobo, the learned counsel appearing for the applicant, has stated that the present revision in its challenge to the impugned Order, dated 27th July 2001, passed by the Comarca Judge of Salcete and Quepem, at Margao, in Inventory Proceedings No. 1259 of 1959, at Exhibit 135, is restricted to the decision of the Comarca Judge at paragraph 14 referring the question of deletion of the properties at items 1 and 2 of the list to be decided in the Conference of the Interested Parties.

3. According to Mr. Lobo the deletion of the properties at items 1 and 2 of the list would be governed by Article 1383 of the Family Laws of Goa, Daman and Diu. Article 1383 reads as under:-

> " Where any co-heir or any other person, claims the ownership of the properties described and prays that the same be excluded from the description, the dispute shall be decided, after hearing the administrator or the person who described the properties, if different, and after evidence is led and necessary information is obtained."

4. Mr. Lobo, therefore, contends that the learned Comarca Judge did not have the jurisdiction to refer the question of deletion of the properties to the Conference of the Interested Parties and ought to have decided the question of deletion himself after hearing the Administrator or the person who described the properties and after evidence was led in that behalf to obtain necessary information.

5. Mr. Lobo in support of his contention has also relied upon the Judgment of the learned Single Judge of this Court in **Caetano Piedade da Costa and another v. Casimiro Gonsalinho da Costa and others,** reported in 1991 (2) Goa L.T. 204.

6. Mr. Rohit Bras de Sa, the learned counsel

appearing for the non-applicant, has fairly conceded that the deletion of the properties would be governed by Article 1383 and the Comarca Judge, therefore, had no jurisdiction to refer the question of deletion of the properties to the Conference of the Interested Parties.

7. In view of this, the Order of the learned Comarca Judge of Salcete and Quepem, at Margao, dated 27th July 2001, in Inventory Proceedings No. 1259 of 1959, insofar as referring the question of deletion of the properties at items 1 and 2 of the list of assets by calling the Conference of the Interested Parties to decide the said question, is hereby quashed and set aside. The learned Comarca Judge is directed to decide the question of deletion of properties as per Article 1383 of the Family Laws of Goa, Daman and Diu. The Civil Revision Application is, accordingly, allowed with no order as to costs.

(P.V. HARDAS)
JUDGE.

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